

PROGRAMS FOR STUDENTS WITH DISABILITIES
UNDER SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973

I. Introduction

- A. It is the responsibility of the District to identify and evaluate students with disabilities who, within the intent of Section 504 of the Rehabilitation Act of 1973, need special services or programs in order that such students may receive the required free appropriate education. A free appropriate education consists of regular or special education and related aids and services that are designed to meet the disabled student's needs as adequately as the needs of nondisabled students are met. Each qualified student within the District who is eligible to receive regular or special education or related aids or services, regardless of the nature or severity of the condition necessitating such programs or services, shall receive a free appropriate education in the District.
- B. For purposes of this policy, a student who may need special services or programs within the intent of Section 504 is one who:
1. Has a physical or mental impairment that substantially limits one or more major life activities (e.g., learning); or
 2. Has a record of such impairment; or
 3. Is regarded as having such impairment.
- C. Students may be eligible for services under the provisions of Section 504 even though they do not require services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq.(IDEA) and Article 89 of the New York Education Law and part 200 of the State Commissioner's regulations which implement the IDEA. Students who are identified as disabled individuals with exceptional needs, according to IDEA criteria, are not addressed under this policy. The needs of such students are met through the Committee on Special Education (CSE) and its policies and procedures and under the applicable state and federal laws and regulations.

II. Identification and Referral Procedures

- A. Any student who needs or is believed to need special education or related services not available through existing programs in order to receive a free appropriate public education may be referred by the student's parent or guardian, a teacher, or other certified school employee to the designated Section 504 Committee (504 Committee) for identification and evaluation of the student's individual education needs.

PROGRAMS FOR STUDENTS WITH DISABILITIES
UNDER SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973

- B. 1. All decisions involving placements of children protected under Section 504 must be made by a group of individuals, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options.
- 2. Subject to the sole discretion of the Board of Education, the CSE may be designated as the 504 Committee.
- C. Members of the 504 Committee will be encouraged to participate in training sessions and to provide in-service workshops so that others can be made more knowledgeable of disabilities, needs and law and regulations in this area.
- D. The 504 Committee will consider the referral and, based upon a review of the student's existing records, including academic, medical, social, and behavioral records, make a decision as to whether an evaluation under this program is appropriate. If a request for evaluation is denied, the 504 Committee will inform the parent or guardian of this decision and of their procedural rights.

III. Evaluation

- A. Evaluation of the student and formulation of a plan of services will be carried out by the 504 Committee according to the following procedures:
 - 1. The 504 Committee will evaluate the nature of the student's disability and the impact of the disability upon the student's education. This evaluation will include consideration of any behaviors that interfere with regular participation of a student who otherwise meets the criteria (such as age) for participation in the educational program and/or activities. It shall also consider aptitude and achievement tests, teacher reports and recommendations, the student's physical condition, social or cultural background and adaptive behavior.
 - 2. No final determination of whether the student will or will not be identified as disabled within the meaning of Section 504 will be made by the 504 Committee without first inviting the parent or guardian of the student to participate in a meeting concerning such determination.
 - 3. A final decision will be made by the 504 Committee in writing, and the parents or guardian of the student shall be notified of the Section 504 procedural safeguards available to them, including the right to an impartial hearing and review.

POLICY

INSTRUCTION

8502

PROGRAMS FOR STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973

IV. Plan for Services

- A. For a student who has been identified as disabled within the meaning of Section 504 and in need of special education or related aids and services, the 504 Committee shall be responsible for determining what special services are needed.
- B. In making such determination, the 504 Committee will consider all available relevant information, drawing upon a variety of sources, including, but not limited to, comprehensive assessments conducted by the District's professional staff and/or the CSE.
- C. The parents or guardian will be invited to participate in 504 Committee meetings where services for the student will be determined, and will be given an opportunity to examine all relevant records.
- D. The 504 Committee will develop a written plan describing the disability and the special education or related services needed. The plan will specify how the regular or special education and related aids and services will be provided, and by whom. The plan may also specify accommodations that are to be made for the student within the regular education program.
- E. The 504 Committee may also determine that no special education, related services or accommodations are appropriate. If so, the record of the 504 Committee proceedings will reflect the identification of the student as a disabled person and will state the basis for the decision that no special services are presently needed.
- F. A disabled student will be placed in the regular educational environment of the District, with the use of supplementary aids and services, unless the 504 Committee demonstrates that such placement cannot be achieved satisfactorily. The disabled student will be educated with those who are not disabled to the maximum extent appropriate to the individual needs of the student. However, appropriate consideration must be given to the impact of a student with a disability on the education of other students in the general or special education class when making placement decisions.
- G. The 504 Committee will notify the parents or guardian in writing of its final decision concerning the services to be provided.
- H. If a plan for related services is developed, all school personnel who work with the student will be informed of the plan.

V. Review of the Student's Progress

PROGRAMS FOR STUDENTS WITH DISABILITIES
UNDER SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973

The 504 Committee will monitor the progress of the disabled student and the effectiveness of the student's education plan annually to determine whether special education, related services or accommodations are appropriate and necessary, and that the disabled student's needs are being met as adequately as the needs of the nondisabled students. Prior to any subsequent significant change in placement, a comprehensive reevaluation of the student's needs will be conducted.

VI. Procedural Safeguards

- A. The parents or guardian will be notified in writing of all District decisions concerning the identification, evaluation, or educational placement of students made under this policy.
- B. The parents or guardian will be notified that they may examine relevant records.
- C. As to such decisions by the District, the parents or guardians shall have the right to an impartial hearing (Section 504 due process hearing). In the notification of any District decision concerning identification, evaluation, or placement, the parents or guardian will be advised that:
 - 1. A request for a Section 504 due process hearing must be made in writing and filed with the Superintendent of Schools within thirty (30) days of notice of the determination to be reviewed.
 - 2. The hearing shall be held by a person to be designated by the Board of Education.
 - 3. The parent or guardian shall be permitted to participate in the hearing and shall be allowed to summon witnesses and to present other evidence on behalf of the student.
 - 4. The parent or guardian shall be permitted to be represented by counsel at the hearing.
 - 5. Compliance with technical rules of evidence shall not be required at the hearing.
- D. If a state due process hearing has been or will be held under the IDEA concerning issues relevant to the Section 504 proceeding, a hearing officer qualified as to IDEA and Section 504 proceedings may preside in a joint hearing. The issues for either IDEA or Section 504 determination shall be clearly defined at the outset,

POLICY

INSTRUCTION

8502

PROGRAMS FOR STUDENTS WITH DISABILITIES
UNDER SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973

and determinations by the hearing officer shall be separate and distinct.

- E. If both the parents or guardian and the District agree that the student is not eligible for special education under the IDEA, neither party is required to exhaust administrative proceedings under the IDEA prior to the holding of a Section 504 due process hearing.
- F. The hearing officer shall render a decision. The parents or guardian shall be notified in writing of the decision. Either party may seek review of the decision of the Section 504 hearing officer by a court of competent jurisdiction as authorized by law.
- G. The parties abide by the decision of the Section 504 hearing officer unless the decision is appealed to a court of competent jurisdiction and the decision is stayed by the court.

Waterville Central School District

Legal Ref: Rehabilitation Act of 1973, 29 USC Section 794 et seq. (Section 504); Memorandum NYS Education Department from Kathy Ahearn, Lawrence Gloeckler and Arthur Walton, November 1993; Memorandum U.S. Department of Education to Regional Civil Rights Directors from Jeanette Lim, April 29, 1993

Cross Ref: 0015, Nondiscrimination Policy

Adopted: 05/26/98

Revised; 06/14/11, 04/17/18